

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COMMISSIONER OF HUMAN SERVICES

In the Matter of the Maltreatment  
Determination, Disqualification of Mary  
Kulas, and the Revocation of the Child  
and Adult Foster Care Licenses of  
Roger and Mary Kulas

**FINDINGS OF FACT, CONCLUSIONS,  
AND RECOMMENDATION**

This matter came before Administrative Law Judge (ALJ) Kathleen D. Sheehy for hearing on August 19, 2010, at the County Office Building, 202 West Third Street, Winona, Minnesota. The OAH record closed on September 8, 2010, upon receipt of post-hearing letter briefs.

Susan E. Cooper, Assistant Winona County Attorney, 171 West Third Street, Winona, MN 55987-3166, appeared for the Minnesota Department of Human Services (Department) and Winona County Human Services (County).

Gregory B. Schultz, Attorney at Law, 225 South Kingston Street, Caledonia, MN 55921, appeared for Roger and Mary Kulas (Licensees).

**STATEMENT OF ISSUES**

1. Did Mary Kulas commit maltreatment by abusing J.C., a vulnerable adult?
2. If so, is she disqualified from providing child and adult foster care on the basis of the maltreatment determination, or should the disqualification be set aside?
3. Should the Department revoke the child and adult foster care licenses held jointly by Roger and Mary Kulas on the basis of the disqualification of Mary Kulas?

The Administrative Law Judge concludes that Mary Kulas did commit maltreatment of a vulnerable adult by abusing J.C.; that Kulas is disqualified from providing licensed care because the maltreatment was serious; that the disqualification should not be set aside for the child foster care license, which should be suspended until it expires; and that the disqualification should be set aside for the adult foster care license, to permit the Licensees to continue to provide adult foster care to J.R., an elderly relative who has resided with them for many years.

Based on the hearing record, the Administrative Law Judge makes the following:

### **FINDINGS OF FACT**

1. Mary Kulas and Roger Kulas currently reside in Winona, Minnesota. Roger Kulas works as an electronics technician for Trane Co. in La Crosse, Wisconsin. Mary Kulas has not been employed outside their home since they began to provide foster care. They have provided licensed adult foster care for 14 years and child foster care for 17 years, through Houston County and through Winona County since November 2009. No adverse actions were taken against their licenses during those years.<sup>1</sup>

2. The Kulases live in a split-level home. From the front entry, a short flight of stairs leads down to the lower level, which contains a bedroom used by foster children. Another short flight of stairs leads up to the main living level, where the kitchen, living room, and dining room are located, along with the master bedroom and at least one other bedroom.<sup>2</sup>

3. J.R. is the 75-year-old aunt of Mary Kulas. For the past 11 years, since she had a disabling stroke, J.R. has lived with Mary and Roger Kulas under their adult foster care license. J.R. is paralyzed on her right side. She has cognitive impairments, speaks and hears very little, and walks with difficulty. J.R. is not physically aggressive, and her most difficult behaviors involve resisting medications and use of bad language. She is able to enjoy family functions and eat dinner at restaurants with the Kulas family. J.R. has her own bedroom on the main floor of the family's home.<sup>3</sup>

4. In 2008, the Kulases began doing respite care for J.C., a 17-year-old girl who was in foster care with another family. In October 2008, when the relationship between J.C. and her foster parents began to deteriorate, J.C. was placed with Roger and Mary Kulas.<sup>4</sup>

5. J.C. had been in 19 different out-of-home placements since the age of seven. She had been neglected by her birth parents, whose parental rights were terminated, and was physically abused by her father. During her years in foster care, she had received a variety of diagnoses, including Reactive Attachment Disorder (RAD), attention deficit disorder, oppositional defiant disorder, post-traumatic stress disorder, bipolar disorder, major depressive disorder, and Fetal Alcohol Spectrum Disorder (FAS). She has a history of poor impulse control, poor judgment, inability to maintain relationships, and inability to manage stress. When under stress, J.C. has punched holes in walls, yelled,

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<sup>1</sup> Testimony of Kari Gordon; Testimony of Andrea Ulrich.

<sup>2</sup> Testimony of Roger Kulas; Testimony of Mary Kulas.

<sup>3</sup> Test. of R. Kulas.

<sup>4</sup> Testimony of Scott Ingalls.

screamed, and hit others.<sup>5</sup> She has learning disabilities in both reading and written language, and she has an almost pathological tendency to steal small items, hoard food, and tell lies.<sup>6</sup>

6. In late January 2009, J.C.'s psychologist learned that J.C. had recently kicked Mary Kulas in the stomach and left a bruise. The psychologist relayed this information to J.C.'s case manager, who immediately contacted Mary Kulas. Kulas confirmed that J.C. had kicked and bruised her two weeks previously, but said she did not want to tell anyone about it. The case manager advised Kulas that he needed to know about these types of incidents, that they could not be tolerated, and that she should call law enforcement if J.C. assaulted her again. At a case conference in February 2009, attended by J.C. as well as Roger and Mary Kulas, he again advised them to call law enforcement if such an incident happened again.<sup>7</sup>

7. On the evening of March 29, 2009, Mary Kulas called law enforcement to report that J.C. had run away. A deputy found J.C., crying and upset, sitting at the end of the Kulas driveway. She told the deputy that she had argued with her foster parents over some food she brought to her room without asking. Mary Kulas reported to the deputy that she was upset with J.C. because J.C. has not been honest about homework and had taken things around the house. Mary Kulas also reported that when J.C. announced she was running away, Mary Kulas tried to grab the backpack J.C. was wearing. J.C. pushed her away, pulled off the backpack, and ran out the door. After discussion with the deputy, during which he advised her that she should not take things her foster parents did not want her to have, J.C. returned to the house.<sup>8</sup>

8. At some point in this timeframe, the County began providing home-based behavior management services to Roger and Mary Kulas and J.C. A clinician from Human Behavioral Services worked in their home to provide all of them with more skills for managing J.C.'s behavior. Those services were discontinued on June 10, 2009.<sup>9</sup>

9. On the evening of June 28, 2009, a Winona County Deputy responded to another disturbance call at the residence. Mary Kulas reported that she and J.C. had gotten into an argument over small items missing from the home—some hair dye, candy, about \$2, and some pens and pencils. Mary Kulas went into J.C.'s room and began searching the dresser drawers by removing J.C.'s clothing from the dresser and throwing it onto the bed. J.C. then threw some clothing items, or perhaps a shoe, at Mary Kulas. J.C. and Mary

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<sup>5</sup> Ex. B.

<sup>6</sup> Test. of S. Ingalls.

<sup>7</sup> Test. of S. Ingalls; Ex. 8, Attachment k (case notes 2/3/09 and 2/9/09).

<sup>8</sup> Ex. 8, Attachment i.

<sup>9</sup> Test. of S. Ingalls.

Kulas began to wrestle, and they both fell to the floor. Roger Kulas “broke up the scuffle” and called 911. Deputies brought J.C. to a youth shelter in Winona.<sup>10</sup>

10. On July 10, 2009, J.C. returned to live with Roger and Mary Kulas. The case manager noted that J.C. would stay at the youth shelter every other weekend as respite for Roger and Mary Kulas. The County also re-instituted behavioral management services in the home, with an emphasis on “preemptive efforts before things escalate.”<sup>11</sup>

11. In addition, on July 10, 2009, the licensing worker for child foster care issued a “Correction Order” to Roger and Mary Kulas that did not cite any violation of statute or rule, but provided that “Roger & Mary will continue [with] training re: FAS, RAD & will communicate [with] all team members. Licensor will visit [with] Roger and Mary on a weekly basis to ensure & assist [with] compliance.”<sup>12</sup> The licensing worker believed the Licensees should learn more about FAS and RAD, but she was not able to locate additional training nearby.<sup>13</sup>

12. J.C. turned 18 years old in early September 2009.

13. On the morning of September 16, 2009, J.C. and Mary Kulas got into a verbal argument. Mary Kulas did not believe the shirt J.C. had selected was appropriate for school, because it was too sheer and revealing. J.C. disagreed and refused to change the shirt.<sup>14</sup>

14. While J.C. was at school, Mary Kulas went to J.C.’s room and removed from J.C.’s dresser the shirts that she believed were too sheer or too revealing. Mary Kulas had recently purchased some of the shirts for J.C., and J.C. had purchased some of them herself with her own funds. Mary Kulas put the clothing in her own bedroom.<sup>15</sup>

15. When J.C. returned home from school, Mary Kulas immediately informed her that when she went to her room, J.C. would find several shirts missing because Mary Kulas had taken them. J.C. went to her room, then came back upstairs yelling and swearing at Mary Kulas. Mary Kulas ignored her, and J.C. went back to her room.<sup>16</sup>

16. Roger Kulas returned home from work about 15 minutes later. When she heard him return, J.C. came running upstairs to tell him about the argument. J.C. also tried to go into the master bedroom to retrieve the items, and Roger Kulas took her by the arm, told her she was not allowed in their room,

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<sup>10</sup> Ex. 8, Attachment j; Test. of M. Kulas.

<sup>11</sup> Ex. 8, Attachment k (case note 7/10/09).

<sup>12</sup> Ex. 8, Attachment m.

<sup>13</sup> Test. of A. Ulrich.

<sup>14</sup> Testimony of J.C.; Test. of M. Kulas.

<sup>15</sup> Test. of M. Kulas.

<sup>16</sup> Test. of J.C.; Test. of M. Kulas.

and directed her to go to her own room. Instead, J.C. went into the kitchen, where Mary Kulas was making dinner, and she slapped or punched Mary Kulas. J.C. then went downstairs to her room, slammed the door, and began packing things into her backpack, because she intended to leave.<sup>17</sup>

17. Mary Kulas followed J.C. down the stairs and into her bedroom. She opened the door and saw that J.C. was packing. She told J.C. she wanted to search the backpack to make sure J.C. was not taking any items that belonged to them. They began pulling back and forth on the backpack. As they were pulling back and forth, Mary Kulas let go, and J.C. fell back onto the bed. When J.C. got up, she attempted to put an alarm clock that belonged to Mary Kulas into the backpack. Mary Kulas grabbed the electrical cord hanging out the back of the clock, and the cord came off. J.C. threw the clock against the wall of her closet, breaking it. Mary Kulas then grabbed J.C.'s radio from the dresser and threw it against the wall of the closet, making a large dent in the wall. Roger Kulas heard the noise and came running down the stairs in time to see J.C. slap Mary Kulas in the face. She also may have punched Mary Kulas in the stomach at this time. Roger Kulas called law enforcement to report the fight.<sup>18</sup>

18. Mary Kulas grabbed the backpack and ran down the hall toward the stairs. J.C. ran behind her and managed to pass Mary Kulas on the stairs. On the stairs and in the entryway near the front door, the two of them continued to push and pull at each other over the backpack. In the process, J.C. kicked Mary Kulas, and Mary Kulas pulled J.C.'s hair. At some point, J.C. lost her balance on the stairs and went down several stairs backwards, landing on her feet. At that point, Mary Kulas dropped the backpack and went upstairs. J.C. left the house and waited for the police at the end of the driveway.<sup>19</sup>

19. In the course of this incident, J.C. sustained bruising on her right upper arm. The bruises look like finger marks made from gripping J.C.'s upper arm from behind.<sup>20</sup>

20. The police arrested J.C. and charged her with domestic assault. When she was released from detention the next day, she was placed in a residential treatment facility and later placed in a different foster home in Winona. J.C. pleaded guilty to domestic assault of Mary Kulas and is still on probation for this offense. She has expressed remorse and regret about the incident and has recognized her responsibility for what happened.<sup>21</sup>

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<sup>17</sup> Test. of J.C.; Test. of M. Kulas; Test. of R. Kulas.

<sup>18</sup> Ex. 8, Attachment f; Test. of M. Kulas

<sup>19</sup> Ex. 8, Attachment f; Test. of M. Kulas.

<sup>20</sup> Ex. 4.

<sup>21</sup> Test. of S. Ingalls.

21. J.R., the elderly foster care client, was not aware of this altercation. She was in her room and did not hear or see any part of it.<sup>22</sup>

22. Based on police reports regarding the incident, Winona County opened investigations into whether Roger and Mary Kulas had committed maltreatment of a vulnerable adult. On October 15, 2009, the County made a determination of substantiated abuse of J.C. by Mary Kulas.<sup>23</sup> It also found that the allegation of abuse by Roger Kulas was not substantiated.<sup>24</sup>

23. With regard to the maltreatment determination against Mary Kulas, the County determined that Kulas posed an imminent risk of harm to persons served by the child foster care license, based on the immediacy of the disqualifying characteristic and the intrusiveness or violence of the disqualifying characteristic.<sup>25</sup> Based on consultation with the Department, the County found that Kulas did not pose an imminent risk of harm or a risk of harm requiring continuous, direct supervision with regard to J.R., the elderly relative living in the home under the adult foster care license. The County indicated that J.R. could remain in the home during the period in which Mary Kulas could request reconsideration.<sup>26</sup>

24. On November 3, 2009, the County recommended that the Department revoke the adult and child foster care licenses.<sup>27</sup>

25. Mary Kulas requested reconsideration of the maltreatment determination and the disqualification.<sup>28</sup> By letter dated March 18, 2010, the County advised Kulas that the maltreatment and disqualification determinations were affirmed.<sup>29</sup>

26. On April 20, 2010, the Commissioner issued an order revoking the adult and child foster care licenses based on the disqualification of Mary Kulas. The Commissioner did not assess the \$1,000 fine authorized by Minn. Stat. § 245A.07, subd. 3(c)(4), because the licenses were revoked.<sup>30</sup>

27. By letter dated May 3, 2010, Mary Kulas appealed the license revocation. She contended that the information relied upon to disqualify her was incomplete because it did not take into account the violent behavior of J.C. and the need for Mary Kulas to defend herself during this incident. She also argued

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<sup>22</sup> Ex. 8, Attachment f at pages 6-7.

<sup>23</sup> Ex. 10.

<sup>24</sup> Ex. 11.

<sup>25</sup> Ex. 10 at page 2.

<sup>26</sup> *Id.*

<sup>27</sup> Ex. 13.

<sup>28</sup> Ex. 15 at page 4 (Revocation Order).

<sup>29</sup> *Id.*

<sup>30</sup> Ex. 15.

that she did not pose a risk of harm to any person served by the foster care program.<sup>31</sup>

## CONCLUSIONS

1. The Administrative Law Judge and the Commissioner of Human Services have jurisdiction over this matter pursuant to Minn. Stat. §§ 14.50 and 245A.08.<sup>32</sup>

2. The Notice of Hearing is proper in all respects. The County and the Department have complied with all procedural requirements of law and rule.

3. Pursuant to Minn. Stat. § 245A.08, subd. 2a (2008), this is a consolidated contested case hearing regarding the revocation of child and adult foster care licenses based upon a disqualification for serious maltreatment that was not set aside.

4. Substantiated abuse of a vulnerable adult must be proved by a preponderance of the evidence.<sup>33</sup>

5. Abuse of a vulnerable adult is defined in relevant part as “[c]onduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following: (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult[.]”<sup>34</sup>

6. The Department proved by a preponderance of the evidence that Mary Kulas abused J.C. through non-accidental, non-therapeutic conduct that produced physical pain or injury.

7. For licensing purposes, “serious maltreatment” is defined, in relevant part, as abuse resulting in serious injury.<sup>35</sup> “Abuse resulting in serious injury” means, among other things, bruises, skin laceration, or tissue damage.<sup>36</sup>

8. Because the abuse of J.C. resulted in bruising, the maltreatment is deemed to be serious maltreatment.

9. The Commissioner shall disqualify an individual if less than seven years has passed since a substantiated incident of serious maltreatment of a vulnerable adult for which the individual is responsible.<sup>37</sup>

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<sup>31</sup> Ex. 17.

<sup>32</sup> All references to Minnesota Statutes are to the 2008 edition; all references to Minnesota Rules are to the 2009 edition.

<sup>33</sup> Minn. Stat. § 626.5572, subd. 19; Minn. Stat. § 245C.15, subd. 4(b)(2).

<sup>34</sup> Minn. Stat. § 626.5572, subd. 2(b).

<sup>35</sup> Minn. Stat. § 245C.02, subd. 18(a).

<sup>36</sup> *Id.*, subd. 18(c).

10. A disqualification may be set aside if the Licensee demonstrates that the information relied upon in the disqualification decision was incorrect, or the Licensee demonstrates that she does not pose a risk of harm to any person served.<sup>38</sup>

11. In determining whether an individual poses a risk of harm, the Commissioner shall consider (1) the nature, severity, and consequences of the event or events that led to the disqualification; (2) whether there is more than one disqualifying event; (3) the age and vulnerability of the victim at the time of the event; (4) the harm suffered by the victim; (5) the vulnerability of persons served by the program; (6) the similarity between the victim and persons served by the program; (7) the time elapsed without a repeat of the same or similar event; (8) documentation of successful completion of training or rehabilitation pertinent to the event; and (9) any other information relevant to reconsideration.<sup>39</sup>

12. The Licensee has failed to demonstrate that the information relied upon to disqualify her was incorrect or that she does not pose a risk of harm to any person served by the child foster care license.

13. The Licensee has demonstrated that she does not pose a risk of harm to the person currently served under the adult foster care license.

14. The Commissioner may suspend or revoke a license if a license holder has a disqualification that is not set aside.<sup>40</sup> When applying sanctions authorized under Minn. Stat. § 245A.07, the Commissioner shall consider the nature, chronicity, or severity of the violation of law or rule and the effect of the violation on the health, safety, or rights of persons served by the program.<sup>41</sup>

15. A license holder shall forfeit a fine of \$1,000 for each determination of maltreatment of a vulnerable adult for which the license holder is determined responsible.<sup>42</sup>

16. The Administrative Law Judge adopts as Conclusions any Findings that are more appropriately described as Conclusions.

Based on the above Conclusions, and for the reasons explained in the accompanying Memorandum, the Administrative Law Judge makes the following:

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<sup>37</sup> Minn. Stat. §§ 245C.14, subd. 1(a)(3); 245C.15, subd. 4(b)(2).

<sup>38</sup> Minn. Stat. § 245C.21, subd. 3.

<sup>39</sup> Minn. Stat. § 245C.22, subd. 4(a).

<sup>40</sup> Minn. Stat. § 245A.07, subd. 3.

<sup>41</sup> *Id.*, subd. 1(a).

<sup>42</sup> *Id.*, subd. 3(c)(4).



## **RECOMMENDATION**

IT IS RECOMMENDED that the Commissioner of the Department of Human Services:

- (1) Affirm the determination that Mary Kulas abused a vulnerable adult;
- (2) Affirm the disqualification to provide licensed care because the maltreatment was serious;
- (3) Set aside the disqualification for purposes of the adult foster care license, so that the Licensees may continue to provide care to J.R.;
- (4) Assess Mary Kulas a fine in the amount of \$1,000 as a condition of retaining the adult foster care license; and
- (5) Suspend the child foster care license until such time as it expires.

Dated: September 16, 2010.

s/Kathleen D. Sheehy

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KATHLEEN D. SHEEHY  
Administrative Law Judge

Reported: Digitally recorded

## **NOTICE**

This report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Human Services will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Cal Ludeman, Commissioner, Minnesota Department of Human Services, P.O. Box, 64998, St. Paul MN 55164-0998, to learn the procedure for filing exceptions or presenting argument.

If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Commissioner, or upon the expiration of the deadline for doing so. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

Under Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

## **MEMORANDUM**

The Licensees contend that because no witness could say for certain how the bruise on J.C.'s arm occurred, the County has failed to prove that she committed maltreatment of a vulnerable adult. In her first conversation with the police, J.C. said that the marks were from Mary Kulas grabbing her and holding her down on the bed. During the hearing, J.C. testified that Mary Kulas grabbed her arm when she tried to get out the front door. She also said she was not sure exactly how her arm was bruised. J.C.'s inability to identify the exact mechanism of injury, however, is not determinative. There was undisputedly a lot of pushing, pulling, and grabbing going on between Mary Kulas and J.C., starting in the bedroom and proceeding up the stairs and into the entryway. It is more likely than not that at some point in the course of this incident, Mary Kulas grabbed J.C.'s arm from behind while attempting to get at the backpack, and left the finger marks that are evident in the photographs.

The Licensees argue, in the alternative, that if J.C. was bruised as a result of the altercation with Ms. Kulas, it happened because Ms. Kulas was defending herself from J.C.'s assaultive behavior. That scenario is not what the record reflects. Although J.C. unquestionably did assault Mary Kulas in the kitchen, J.C. left the room immediately and returned to her room downstairs. Mary Kulas followed J.C. downstairs, and there the argument escalated into a brawl because Mary Kulas insisted on searching the backpack. As Mary Kulas told the child protection investigator, she wanted to search the backpack because J.C. had a habit of stealing; J.C. had stolen some things from Mary Kulas in the past; and, as recently as a few days beforehand, J.C. had stolen a bag of chocolate candy bars.<sup>43</sup> The bruising occurred because Mary Kulas was attempting to defend some small item of property, not because she was trying to defend herself from harm. There is no evidence that J.C. had in fact stolen any property of any sort that evening.

During the hearing, the Licensee challenged J.C.'s credibility on the basis of her propensity to lie about difficult situations. It may be that J.C. has that propensity. The Administrative Law Judge has carefully reviewed the record, however, and J.C.'s statements are, for the most part, consistent in most material respects with those of Roger and Mary Kulas. Moreover, the argument that J.C. is not truthful is something of a double-edged sword for the Licensees. J.C. testified unequivocally that she started the fight by hitting Mary Kulas; that she punched and kicked Ms. Kulas in the course of the argument; and that Ms. Kulas never hit her back, either during this argument or at any other time. The

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<sup>43</sup> Ex. 8 at Attachment f, pages 6-8.

Administrative Law Judge has concluded that all three persons involved in the incident were testifying to the best of their recollections about a difficult subject and that no one provided intentionally false testimony.

When the County made the maltreatment determination, it advised Mary Kulas that she posed an imminent risk of harm to persons served by the child foster care license, but that she did not pose an imminent risk of harm to the person residing in her home under the adult foster care license (J.R.), nor did she pose a risk of harm requiring continuous, direct supervision while providing direct contact services to J.R. This determination was made in consultation with the Commissioner, as required by Minn. Stat. § 245C.16, subd. 1.

When the County subsequently recommended a negative licensing action to the Commissioner, however, the County did not prepare or submit a separate evaluation of the risk of harm to persons served by the program.<sup>44</sup> And although the County affirmed both the maltreatment determination and disqualification several months later, in March 2010, it does not appear from the record that the County engaged in any analysis of the risk of harm for purposes of determining whether the disqualification should be set aside or a variance granted. The Commissioner's order makes no reference to whether the disqualification should be set aside or a variance granted.

The Licensee has the burden to submit sufficient information to demonstrate that she does not pose a risk of harm to any person served by the licensed program. In determining whether an individual poses a risk of harm, the Commissioner shall consider (1) the nature, severity, and consequences of the event that led to the disqualification; (2) whether there is more than one disqualifying event; (3) the age and vulnerability of the victim at the time of the event; (4) the harm suffered by the victim; (5) the vulnerability of persons served by the program; (6) the similarity between the victim and persons served by the program; (7) the time elapsed without a repeat of the same or similar event; (8) documentation of successful completion of training or rehabilitation; and (9) any other information relevant to reconsideration.<sup>45</sup>

The disqualification was based on a single incident. J.C. is an emotionally vulnerable adult, but she is not physically vulnerable. She is a strong person, inclined toward physical aggression when she is frustrated. The physical harm she suffered was minimal, compared to the harm she inflicted by punching and kicking her foster mother. These factors weigh in the Licensee's favor.

Ms. Kulas has very little insight, however, into the nature and consequences of the event or events that led to her disqualification. In March 2009, Ms. Kulas grabbed J.C.'s backpack because she believed J.C. had not

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<sup>44</sup> Minn. R. 9543.0100, subp. 1 (2009), requires submission of such an evaluation.

<sup>45</sup> Minn. Stat. § 245C.22, subd. 4(a).

been honest about homework and was “taking things around the house.”<sup>46</sup> This prompted J.C. to push Kulas and attempt to run away. In June, Ms. Kulas again argued with J.C. about missing items; she removed clothing from J.C.’s dresser, and she engaged in a verbal argument that ended up in a wrestling match.<sup>47</sup>

On the day in question, Ms. Kulas engaged in a power struggle with an 18-year-old girl who suffers from complex mental health conditions, over the propriety of clothing worn to school. She again invaded J.C.’s privacy by searching her room for and removing the offending clothing, some of which Ms. Kulas had actually purchased for J.C. to wear to school. Kulas also immediately re-ignited the argument when J.C. returned home from school. And after J.C. lost her temper and hit Ms. Kulas, Kulas followed J.C. down the stairs and escalated the argument into a physical contest over the backpack, to prevent J.C. from possibly getting away with the theft of some small items of little monetary value. Ms. Kulas believes that her actions, with the exception of throwing the radio at the wall, were entirely justified. She has not submitted evidence of the completion of any training in managing difficult adolescent behaviors since this incident occurred. These factors weigh against the Licensee.

The other person currently being served by the program, J.R., presents different challenges. She is physically frail and cognitively impaired. Her difficult behaviors appear to be limited to resistance to taking medications and use of bad language. There is no evidence that Ms. Kulas has had any difficulty managing J.R.’s care over the lengthy period of time in which J.R. has resided at the Kulas residence.

Children in foster care often present difficult behaviors. After analyzing the statutory factors, the Administrative Law Judge concludes that the disqualification should not be set aside for the child foster care license. The Licensees have demonstrated, however, that the disqualification should be set aside for the adult foster care license, so that they may continue to provide foster care to J.R.<sup>48</sup>

**K.D.S.**

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<sup>46</sup> Ex. 8, Attachment i.

<sup>47</sup> Ex. 8, Attachment j.

<sup>48</sup> The Administrative Law Judge has recommended a suspension of the child foster care license until such time as it expires, in lieu of revocation, so that renewal of the adult foster care license is not precluded by Minn. Stat. § 245A.08, subd. 5a(a) (revocation of a license precludes the granting of a new license for a period of five years).